

Re: PHILA.ELEC. CO. Liverick Gen,Sta. Units 1 & 2. Docket No. 50-352,353

January 3, 1985

MOTION BY R.L.ANTHONY/FOE TO SUBPOENA RONALD WAGENMANN TO TESTIFY AS TOWNSHIP MANAGER OF UPPER MERION ON OUR CONTENTION LEA-24/FOE-1 AS IT APPLIES TO KING OF PRUSSIA AND VALLEY FORGE PARK, BOTH WITHIN THE TOWNSHIP.

We came to the hearing today prepared to cross-examine Mr. Wagenmann as our witness whom LEA had served on our behalf to appear at 1: pm. Mr.Wagenmann did not appear, and we were informed by LEA that they had agreed to a stipulation with PECE and he had been informed that he would not have to appear. We informed the Board that we could not agree to any stipulation which prevented Mr.Wagenmann from testifying on the substance of our contention as accepted by the Board (below):

These areas (Valley Forge Park and King of Prussia, as to Anthony/FOE's contention) should either be included in the Emergency Planning Zone or adequate plans for traffic control and direction should be made to avoid adverse effects on the EPZ evacuation.

There is no way for our case as it relates to the inclusion of King of Prussia in EPZ or traffic control and direction ^{to be fairly considered} unless someone who knew the situation and has authority, testifies before the Board and the specific details are recorded in the transcript. Without this our contention will have been arbitrarily closed out without a hearing and the record will be incomplete. In a written request to the Upper Merion Board of Supervisors we asked the supervisors to testify and to authorize Mr.Wagenmann to represent the township. It did not seem possible for the Supervisors to appear but Mr.Wagenmann is available to answer a subpoena.

We, therefore, request that the Board honor our right to call a witness to testify on our contention and that ^{our} witness, Ronald Wagenmann, be issued a subpoena to testify on behalf of Anthony/FOE on Monday, 1/7/85 at 12 noon or as soon thereafter as the Board can arrange.

We call the Board's attention to the Memorandum and Order of AB, dated 12/14/84 in response to our appeal of 12/10/84 (p.3) "A party's opportunity for cross-examination is not to be taken lightly; it is an important ingredient of a fair hearing." AB further sets forth the basis for review under 10 CFR sec. 2.718 (i) and 2.785 (b) (1): (AB 12/14/84 p.2.)

A party seeking review by this means must show that the Licensing Board's action "either (a) threatens the party adversely affected with immediate and serious irreparable harm which could not be remedied by a later appeal, or (b) affects the basic structure of the proceeding in a pervasive or unusual manner."

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We assert that the Board's action today in cutting off the possibility of Mr.Wagenmann testifying on our behalf on the full extent of our contention threatens us with the loss of our contention, which is an "irreparable harm" and prejudices our case and "the basic structure of the proceeding".

cc: LB Judges, NRC Staff Counsel, Docketing Serv. Respectfully submitted,

PECE, LEA, Commonwealth, FEMA. *Robert L. Anthony*
My address remains the same *Robert L. Anthony* Box 186 Moylan, Pa. 19065